

COUNTY COUNCIL OF FREDERICK COUNTY
MEETING MINUTES
Tuesday, August 18, 2020

Council Members M.C. Keegan-Ayer, President; Michael Blue, Vice-President, Jerry Donald, Kai Hagen, Jessica Fitzwater, Phil Dacey and Steve McKay were present for the meeting.

Also present were Ragen Cherney, Chief of Staff, County Council; Bryon Black, County Attorney; Catherine Keller, Assistant County Attorney; Sarah Ambrosio, Recording Secretary; and Nancy Luna, Executive Assistant, County Council.

Council President M.C. Keegan-Ayer called the meeting to order at 5:30 p.m. virtually via video conference.

Opening Statement from Council President M.C. Keegan-Ayer

Good Evening and welcome to the virtual meeting of the Frederick County Council. Today is Tuesday, August 18, 2020, and it is a legislative day for the County Council.

The Frederick County Council is continuing to conduct our meetings on-line during this time and it seems this may be the way we will be holding our meetings for the foreseeable future due to concerns about the spread of the COVID virus.

Our meetings are televised on Frederick County Government Channel 19, on Frederick County Government's website: www.FrederickCountyMD.Gov/FCGTV, and while we are meeting virtually, we will continue to use our software program which allows the public to watch and participate in our meetings. Please go to www.frederickcountymd.gov/councilmeetings in order to watch us on that format.

You may still send us comments via email at: (Councilmembers@frederickcountymd.gov), or by calling our office line (301) 600-1135 and leaving a voicemail message. Or using our virtual format, you may call toll free 855-925-2801 and enter meeting code 8365 to listen to our meetings live and to give public comment. I will be giving instructions for how to give public comment before each portion of our meeting when public comment will be received. As always, all comments received will be reflected in the minutes.

As a reminder during these virtual meetings, I will periodically stop to allow the members to ask any questions in a round robin type fashion, calling the council members by name to make sure the public is aware of which member has the floor.

As a continued caution to our Council Members – Please be respectful of each other's time and wait to be recognized before you begin to speak. Remember the microphone issue and please limit your questions to one at a time. I will come back around as often as necessary until all questions are heard.

To begin our meeting, I will start with a roll call vote to determine a quorum. Just

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respond with “here”. Again, going in alphabetical order: CM Blue, Dacey, Donald, Fitzwater, Hagen, and McKay. A quorum having been established, we will begin our meeting.

The meeting began with a moment of silence followed by the Pledge of Allegiance.

Action on the Agenda

Council Member Jerry Donald moved to approve the agenda. Council Member Jessica Fitzwater seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Public Comment was heard from:

- None

Business Items:

Approval of Minutes from July 14, July 21, July 22, July 28 and August 4, 2020.

Council Member Jessica Fitzwater moved to approve the minutes from July 14, July 21, July 22, July 28 and August 4, 2020 as presented. Council Member Jerry Donald seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

100th Anniversary of 19th Amendment Recognition

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Council President MC Keegan-Ayer provided information to the Council on the Recognition on the 100th Anniversary of the 19th Amendment

Third Reading Calendar

Bill 20-12 Amend and Update Chapter 1-22 Article I, Development Impact Fee Procedures and Requirements, and Article II, Public School Development Impact Fee, of the Frederick County Code

Council Member Jerry Donald moved to approve Bill 20-12 Amend and Update Chapter 1-22 Article I, Development Impact Fee Procedures and Requirements, and Article II, Public School Development Impact Fee, of the Frederick County Code as presented. Council Member Steve McKay seconded the motion.

Council Member Phil Dacey moved to approve Amendment 1 on Bill 20-12 Amend and Update Chapter 1-22 Article I, Development Impact Fee Procedures and Requirements, and Article II, Public School Development Impact Fee, of the Frederick County Code as presented. Council Member Steve McKay seconded the motion that passed 4-3.

AMENDMENT 1 to Bill No. 20-12

Introduced By:	Council Member Phil Dacey (At-Large)
Introduction Date:	August 18, 2020
Adopted/Rejected/Withdrawn:	_____

An ACT to: adopt changes to Chapter 1-22 of the Frederick County Code (Development Impact Fee Procedures and Requirements).

On Exhibit 1, Page 11, it is hereby amended by adding the text as follows:

§ 1-22-15. EXEMPTION FOR ACCESSORY DWELLING UNITS LESS THAN [800] 1,000 SQUARE FEET.

(A) Accessory dwelling units that do not exceed [800]1,000 square feet in size are exempt from payment of public school development impact fees.

(B) The public school development impact fee for accessory dwelling units greater than [800]1,000 square feet in size shall be the impact fee amount indicated above in § 1-22-12 for "All Other Residential".

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Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald		X	
District 2 – McKay		X	
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer		X	

At 6:15 p.m. Council President MC Keegan-Ayer passed the gavel to Council Vice President Michael Blue.

Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots

Council President MC Keegan-Ayer moved to approve Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots as presented. Council Member Jessica Fitzwater seconded the motion.

Council Member Phil Dacey moved to approve Amendment 1 on Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots. Council Member Steve McKay seconded the motion that failed 2-5.

AMENDMENT 1 to Bill No. 20-13

Introduced By: Council Member Phil Dacey (At-Large)
Introduction Date: August 18, 2020
Adopted/~~Rejected~~/Withdrawn: _____

An ACT to: Amend §1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers.

On Exhibit 1, Page 1&2, it is hereby amended by deleting the text as follows:

§ 1-22-7. EXEMPTIONS/WAIVERS.

CHILD. A ~~[Full-Time]~~ Farmer's offspring, whether natural or legally adopted.

~~[FULL-TIME] FARMER.~~ An individual who owns and operates a farm. ~~[, and who has derived the majority of his or her gross income from agricultural activity during each of the three (3) years prior to filing an application for the farm lot waiver.]~~

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FARM LOT. A lot which is a maximum of two (2) acres in size and has been legally subdivided from a farm by a ~~[full-time]~~ farmer. Lot size modifications may be approved by the County based on subdivision, percolation and other governmental requirements.

GRANDCHILD. The offspring of a child, as defined herein, whether natural or legally adopted.

PARENT. The parent of a ~~[full-time]~~ farmer.

SIBLING. The sibling of a ~~[full-time]~~ farmer.

(2) Impact fees collected under this chapter may be waived for farm lots if the following conditions are met at the time that the waiver is applied for:

(a) The farm lot must have been transferred directly from a ~~[full-time]~~ farmer or a trust or similar entity controlled (more than 50%) by the ~~[full-time]~~ farmer to the ~~[full-time]~~ farmer's parent, sibling, child or grandchild or to a trust or similar entity controlled (more than 50%) by ~~[full-time]~~ farmer's parent, sibling, child or grandchild; and

(b) The ~~[full-time]~~ farmer's parent, sibling, child or grandchild must show proof that he or she currently provides substantial support to the farm, whether by physical or administrative work, or by significant financial support. In this subsection, "substantial support", as it applies to physical or administrative support, must equate to an average of at least 20 hours per week for all weeks in the calendar year.

(3) If the ~~[full-time]~~ farmer's parent, sibling, child or grandchild sells or otherwise transfers the farm lot (except by reason of his or her death) within 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied, then the ~~[full-time]~~ farmer's parent, sibling, child or grandchild shall be obligated to repay the total amount of the waived impact fees to the county.

(4) If the ~~[full-time]~~ farmer's parent, sibling, child or grandchild sells or otherwise transfers the farm lot more than 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied, then the obligation to repay the waived impact fees to the county shall not apply.

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(5) The obligation to repay the waived impact fees to the county shall be memorialized by a recorded lien on the farm lot, which shall, by its terms, expire 5 years after the date of issuance of the building permit to which the impact fee waiver has been applied.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald		X	
District 2 – McKay	X		
District 4 – Fitzwater		X	
District 5 – Blue		X	
At-large – Dacey	X		
At-large – Hagen		X	
Presiding Officer – Keegan-Ayer		X	

Council Member Phil Dacey moved to approve Amendment 2 on Bill 20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots. Council Member Steve McKay seconded the motion. The Amendment was then later postponed until September 1, 2020.

AMENDMENT 2 to Bill No. 20-13

Introduced By: Council Member Phil Dacey (At-Large)
Introduction Date: August 18, 2020
Adopted/Rejected/Withdrawn: _____

An ACT to: Amend §1-22-7(G) of the Frederick County Code to update and clarify the requirements for farm lot impact fee waivers.

On Exhibit 1, Page 1 & 2, it is hereby amended by deleting the text as follows:

§ 1-22-7. EXEMPTIONS/WAIVERS.

(2) Impact fees collected under this chapter may be waived for farm lots if the following conditions are met at the time that the waiver is applied for:

(a) The farm lot must have been transferred directly from a full-time farmer or a trust or similar entity controlled (more than 50%) by the full-time farmer to the full-time farmer's parent, sibling, child or grandchild or to a trust or similar entity controlled (more than 50%) by the full-time farmer's parent, sibling, child or grandchild; and

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~~[(b) The full time farmer's parent, sibling, child or grandchild must show proof that he or she currently provides substantial support to the farm, whether by physical or administrative work, or by significant financial support. In this subsection, "substantial support", as it applies to physical or administrative support, must equate to an average of at least 20 hours per week for all weeks in the calendar year.]-~~

The Council took a break from 7:05 p.m. to 7:15 p.m.

At 7:16 p.m. Council Vice President Michael Blue passed the gavel to Council President MC Keegan-Ayer.

Public Hearing:

YMCA Covenants

Steve Horn, Director, Planning and Permitting Division (PPD), and Mike Wilkins, Director, Department of Development Review and Planning, PPD

Public Comment was heard from:

- Patrick Sharp
- Anthony Murray
- Maureen McGreevy

Council Member Jerry Donald moved to close the record on the YMCA Covenants Public Hearing on Wednesday, August 19, 2020; at 5:00 p.m. Council Member Steve McKay seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

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Council Member Kai Hagen moved to Postpone Bill No.20-13 Revisions to Clarify and Update the Impact Fee Exemption for Farm Lots and additional Amendments until September 1, 2020. Council Member Steve McKay seconded the motion that passed 7-0.

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

Motion to go into Closed Session

A motion was made at 8:52 p.m., by Council Vice President, Michael Blue, to go into closed session in accordance Maryland Annotated Code General Provisions Article §3-305(b)(3) To consider the acquisition of real property for a public purpose and matters directly related to the acquisition. Council Member Phil Dacey seconded the motion that passed 7-0.

9:

Council Members	Aye	Nay	Absent/ Abstain/ Present
District 1 – Donald	X		
District 2 – McKay	X		
District 4 – Fitzwater	X		
District 5 – Blue	X		
At-large – Dacey	X		
At-large – Hagen	X		
Presiding Officer – Keegan-Ayer	X		

***The council went into closed session at 9:06 p.m.*

Public Comment was heard from:

- None

Council Member Comments:

Council Member comments were provided.

FINAL

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Adjourn

The meeting adjourned at 9:03 p.m.

M.C. Keegan-Ayer, President
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**FORM OF STATEMENT FOR
CLOSING THE MEETING OF TUESDAY, AUGUST 18, 2020**

STATUTORY AUTHORITY TO CLOSE SESSION

Maryland Annotated Code General Provisions Article §3-305(b)(3) To consider the acquisition of real property for a public purpose and matters directly related to the acquisition.

Motion

A motion was made at 8:52 p.m., by Council Vice President, Michael Blue, to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b)(3) To consider the acquisition of real property for a public purpose and matters directly related to the acquisition. The motion was seconded by Council Member Phil Dacey, which passed 7-0.

Time and Location:

9:06 p.m. – Held Virtually Via Teams Meeting

Topic for Discussion:

To consider the acquisition of real property for a public purpose and matters directly related to the acquisition.

M.C. Keegan-Ayer, President
County Council

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**FORM OF STATEMENT FOR MINUTES OF NEXT OPEN MEETING
ON TUESDAY, AUGUST 25, 2020
FOLLOWING THE CLOSED MEETING OF TUESDAY, AUGUST 18, 2020**

STATUTORY AUTHORITY TO CLOSE SESSION

Maryland Annotated Code General Provisions Article §3-305(b)(3) To consider the acquisition of real property for a public purpose and matters directly related to the acquisition.

Motion:

A motion was made at 8:52 p.m., by Council Vice President, Michael Blue, to go into closed session in accordance with Maryland Annotated Code General Provisions Article §3-305(b)(3) To consider the acquisition of real property for a public purpose and matters directly related to the acquisition. The motion was seconded by Council Member Phil Dacey, which passed 7-0.

Time and Location:

9:06 p.m. – Held Virtually Via Teams Meeting

Others in Attendance:

Ragen Cherney, Council Chief of Staff; Bryon Black, County Attorney; Catherine Keller, Assistant County Attorney; Sarah Ambrosio, Recording Secretary; Rick Harcum, Chief Administrative Officer, County Executive's Office and Wendy Kearney, Senior Assistant County Attorney.

Topic Discussed:

To consider the acquisition of real property for a public purpose and matters directly related to the acquisition.

Action Taken:

None

M.C. Keegan-Ayer, President
County Council